

CHAPTER 9

SENTENCE COMPUTATION AND GOOD TIME

SECTION 1. POLICY AND DEFINITIONS

9101. POLICY. The rights of individuals must be protected by ensuring that persons are not held in confinement beyond their proper release date. Conversely, the integrity of the judicial system must be maintained by assuring that sentences of courts-martial are carried out fully. Accordingly, commanding officers of briggs will exercise close and continuing supervision over personnel responsible for computation of sentence expiration dates.

9102. DEFINITIONS

1. Good Conduct Time. A deduction from the term of a sentence when a prisoner's record of conduct shows that he or she has faithfully observed all the rules and regulations. Prisoners serving life or death sentences are ineligible for good conduct time.

2. Earned Time. A deduction from the term of a sentence for actual employment in an industry or for exceptionally meritorious service in performance of duties in connection with institutional operations. Earned time for long term confinement is authorized only when approved by the Chief of Naval Personnel (Pers-84) or the Commandant of the Marine Corps (Code MHC).

3. Inoperative Time. Any period of time during which prisoners are not credited with serving their sentence to confinement.

4. Full Term Maximum Release Date (MRD). The entire sentence to confinement (to include the addition of any added sentence(s)) without reduction in time for good conduct but with reduction in time for pretrial credit, judicial credit, and adjustment for crossing the international date line.

5. Normal Release Date. The date determined by subtracting the maximum credit for earnable good time, earned time, forfeited good conduct/earned time, and court awarded credit from the full term release date of the sentence.

6. Adjusted Release Date. The date determined by adding forfeited good time and inoperative time and by subtracting time for which a prisoner is given credit to include earned time and restored good conduct time/earned time.

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7. Parole. A form of conditional release from confinement granted by the Secretary of the Navy to carefully selected individuals who have served a portion of their sentences in confinement, and whose release under supervision is considered to be in the best interest of the prisoner, the naval service, and society as outlined in reference (e).

8. Parole Violator Term. The unexpired term of the sentence to be served by a parole violator. The time spent on parole is credited against the sentence with the following exceptions:

a. If the parolee has been convicted of a new offense committed after being released on parole and this new offense is punishable by a term of imprisonment, forfeiture of the time from the date of release to the date of suspension or revocation of parole may be ordered by the Clemency and Parole Board. Such forfeited time shall not be credited to service of the sentence. An actual term of confinement need not have been imposed for such conviction if the statute under which the parolee was convicted permits the trial court to impose any term of confinement. If such conviction occurs subsequent to a parole violation hearing, a Clemency and Parole Board may reconsider the forfeiture of time served on parole or other disposition, as appropriate.

b. If the Clemency and Parole Board finds that a parolee intentionally refused or failed to respond to any reasonable request, order, or summons of a Clemency and Parole Board or any agent thereof, including the assigned parole officer, or if a Clemency and Parole Board finds that the parolee was not materially in compliance with the conditions of parole, a Clemency and Parole Board may order the forfeiture of time during which the parolee so refused or failed to respond or comply.

9. Vacation of Suspended Sentence. The unexpired term of the sentence to be served by persons who have violated the conditions of their suspension and the suspension is vacated. This term will be the actual number of days' difference between the date of release on probation (date of suspension of sentence) and the full term release date of the sentence adjusted for good time earnable after return to confinement. Good conduct time can only be awarded for the portion of sentence remaining to be served following the vacation of suspension.

10. Expiration Tables. Tables numbering in sequence each day of the year (e.g., from 1 January 1970 through 31 December 2060) taking into account the varying number of days in each month including leap years. These are used in computing sentence expiration dates.

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SECTION 2. GOOD CONDUCT TIME9201. POLICY

1. Prisoners serving a definite sentence to confinement, other than those sentenced to death, confinement for life, or those sentenced to confinement as a result of article 15 punishment, (Bread and Water (B&W)), shall be entitled to a reduction in the time to be served in confinement for good conduct and faithful observance of all rules and regulations. The reduction in the term of confinement shall begin with the day on which the sentence commences to run and shall be credited monthly and computed in accordance with the expiration table.
2. The law provides that prisoners sentenced to confinement may earn a specified number of days good time according to the total length of their sentence(s).
3. Computation of the maximum earnable good conduct time is made at the time of admission solely as an administrative convenience for establishing the earliest release date. This computation is not a crediting process. Good time is credited after it has been earned. When discussing length of confinement and release dates with prisoners, care must be exercised to cite the full term release date which may be reduced by good time, if earned.
4. A prisoner who accepts parole waives all good conduct time and earned time earned up to the date of release on parole. This time cannot subsequently be restored if the offender returns to confinement from parole. The parole does not lose good conduct time or earned time if he or she is restored to confinement during his or her incremental parole period.

9202. RATE OF EARNING

1. Good conduct time shall be credited as earned and computed according to the total length of sentence(s) as described below:
 - a. FIVE days for each month of the sentence if the sentence is less than 1 year.
 - b. SIX days for each month of the sentence if the sentence is at least 1 year but less than 3 years.
 - c. SEVEN days for each month of the sentence if the sentence is at least 3 years but less than 5 years.
 - d. EIGHT days for each month of the sentence if the sentence is at least 5 years but less than 10 years.

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e. TEN days for each month of the sentence if the sentence is 10 years or more.

2. For sentences involving portions of months in the sentence to confinement, or sentences to confinement in days, the rates of earning good time for that portion of the sentence shall be determined by utilizing Table 9-1.

TABLE 9-1
RATE OF EARNING

Portion of month of sentence	Less than 1 yr	1 yr and less than 3 yrs	3 yrs and less than 5 yrs	5 yrs and less than 10 yrs	10 yrs + excluding life	Portion of month of sentence
1	0	0	0	0	0	1
2	0	0	0	0	0	2
3	0	0	0	0	1	3
4	0	0	0	1	1	4
5	0	1	1	1	1	5
6	1	1	1	1	2	6
7	1	1	1	1	2	7
8	1	1	1	2	2	8
9	1	1	2	2	3	9
10	1	2	2	2	3	10
11	1	2	2	2	3	11
12	2	2	2	3	4	12
13	2	2	3	3	4	13
14	2	2	3	3	4	14
15	2	3	3	4	5	15
16	2	3	3	4	5	16
17	2	3	3	4	5	17
18	3	3	4	4	6	18
19	3	3	4	5	6	19
20	3	4	4	5	6	20
21	3	4	4	5	7	21
22	3	4	5	5	7	22
23	3	4	5	6	7	23
24	4	4	5	6	8	24
25	4	5	5	6	8	25
26	4	5	6	6	8	26
27	4	5	6	7	9	27
28	4	5	6	7	9	28
29	4	5	6	7	9	29
30	5	6	7	8	10	30

3. A parole or probation violator, upon return to confinement, shall earn good conduct time at the rate applicable to the

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sentence in effect at the time of violation of parole or probation.

9203. FORFEITURE OF GOOD TIME. The CO/OIC may direct forfeiture of any or all good time earned by a prisoner. Any good time or earned time will be forfeited by escape only after due process by a disciplinary and adjustment board action. In the case of parole violation or vacation of suspended sentences, any good time or earned time will be forfeited. A prisoner on incremental parole who is not extended to his/her full term release date is credited with the incremental period(s) for purposes of confinement served and does not lose the good conduct time or earned time earned prior to release on parole. (Refer to article 518d of reference (e). Good conduct time is earned and lost on a basis of the monthly anniversary date of the start of the sentence, not on a calendar month basis.

Example: A prisoner's sentence includes confinement adjudged 8 July. The first month of the sentence ends on 7 August at 2400 and each subsequent month ends on the seventh day of that subsequent month. Thus, if the sentence was to 6 months confinement, and the offense occurred on 7 November, a maximum of 20 days (4 months X 5 days good time per month) can be forfeited.

9204. RESTORATION OF GOOD CONDUCT TIME AND EARNED TIME. Except for time waived upon parole, the CO/OIC of a brig may restore all or any part of the good conduct time or earned time previously forfeited by him or herself or a previous CO/OIC. This action shall be in writing, and signed by the CO/OIC.

9205. CHANGE IN RATE OF EARNING

1. When a change in the period of confinement (either an increase in total sentence by an additional sentence or a decrease in the total sentence by reviewing authorities or clemency action) changes the rate of earning good time, the sentence will be computed as shown below.

Example: A prisoner who was serving a 7-month sentence appeared at a subsequent court-martial and received an additional 6-month sentence. Although the last adjudged sentence automatically interrupts the original sentence, the sentences shall be considered in the aggregate to determine the rate of earning of good time (see article 9305). Therefore, instead of earning 35 days good conduct time on the first sentence (seven months x 5 days per month GCT) and 30 days good time for the subsequent sentence (6 months x 5 days per month GCT), the sentence will be totaled (aggregated) to 13 months and the rate

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of earning will be 6 days for each month of sentence, for a total of 78 days good time, rather than the 65 days good time earnable if not aggregated.

Example: An original sentence of 15 months confinement is reduced by convening authority to 10 months confinement. Originally, the prisoner could have earned a total of 90 days good time (15 months x 6 days per month GCT). The reduction in the total sentence would change the rate of earning to 5 days Good time per month, for that portion of the sentence remaining to be served after the convening authority's action. The higher rate is credited for the period of time between the adjudged date and the convening authority's action. The prisoner will be credited with earning the higher rate (6 days per month) until the date of the action reducing the sentence, then the lower rate (5 days per month) is credited for the balance of the sentence. If the action was effective at the end of the third month, the prisoner would be credited with 18 days (3 x 6) plus 35 days (7 x 5), for a total of 53 days.

2. Any changes in the total sentence shall not change the amount of previously forfeited good time.

9206. EARNED TIME

1. Applicability. The provisions of this article can only be granted by the Chief of Naval Personnel (Pers-84) or the Commandant of the Marine Corps (Code MHC).

2. Procedures

a. Earned time may be awarded to any prisoner based on his or her record of confinement when specifically authorized. It should be awarded selectively and is intended to reward sustained extra effort and meritorious performance of duty. It should not be granted merely because a prisoner does what is expected. It should be earned through demonstrated excellence in performance of work and training. It should not be granted if good conduct time forfeitures remain outstanding.

b. Earned time may be granted at a rate not to exceed 3 days per month during the first year of confinement, and not to exceed 7 days per month in subsequent years of confinement. Earned time may be prorated for fractions of months and will be awarded as a result of a specific unit or disposition board decision, not as a routine administrative procedure.

c. Earned time may be forfeited and restored in the same manner as good time.

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d. Earned time shall advance a prisoner's normal release date on a day-for-day basis as earned.

9207. PAROLE. Reference (e) establishes policies and procedures for the conditional release on parole of court-martialed prisoners serving sentences which include an unsuspended punitive discharge or dismissal.

SECTION 3. SENTENCE COMPUTATION

9301. DATES OF COMPUTATION

1. Confinement included in a sentence of a court-martial begins to run from the date the sentence is adjudged by the court-martial, whether or not the person is placed in confinement, unless the sentence to confinement was suspended or deferred.

a. If a sentence to confinement was suspended and the suspension was later vacated, the date that the suspension was vacated would be the beginning date of the sentence computation and would count as a full day of confinement, whether or not the person is placed in confinement, and regardless of the hour of commitment.

b. If a sentence to confinement was deferred, the date of the termination of the deferment would be the beginning date of the sentence computation, and would count as a full day of confinement, whether or not the person was placed in confinement, and regardless of the hour of commitment.

2. The day of confinement and the day of release shall each be considered to be one full day of confinement for sentence computation purposes, regardless of the hour of commitment or release. This also applies to escapes and apprehensions, and also to suspensions and vacation of suspensions.

9302. ARTICLE 15, UCMJ, CONFINEMENTS

1. B&W/Diminished Rations (DIMRATS)

a. Confinement on B&W or DIMRATS is an authorized punishment under the UCMJ, article 15. This punishment is authorized for up to 3 days and can only be imposed upon personnel in pay grade E-3 or below who are attached to or embarked in a vessel.

b. The beginning date of sentence computation is the date that the confinement to B&W or DIMRATS was imposed. A CO, when the exigencies of the service require or when adequate facilities are not available, or if the member is found to be not medically

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fit for the service of the punishment, may defer execution of confinement on B&W for a reasonable period of time not to exceed 15 days after imposition, in which case the beginning date of the sentence would be the termination date of the deferment. These dates shall be used as the beginning dates of sentence computation regardless of the time of confinement or whether or not the person is placed in confinement on that date and shall count a full day of confinement.

2. Good Conduct Time. Good conduct time may not be earned for punishments imposed under article 15, UCMJ.

3. Release Computation. Determining release date by the number of hours or meals served in confinement is not authorized.

4. Correctional Custody. Confinement may be authorized in a correctional custody status when requirements of reference (f) are met. Normal sentence computation procedures apply, except that good conduct time cannot be awarded during this period. Correctional custody is not counted as lost time and is effective when imposed except that CO/OIC may, when adequate facilities are not available, when the exigencies of the service require, or if the accused is found to be not medically fit for the service of the punishment, defer execution of correctional custody for a reasonable period of time, not to exceed 15 days after imposition.

9303. METHODS OF SENTENCE COMPUTATION

1. Accuracy. Precise sentence computation is essential to uphold the rights of prisoners; to ensure prisoners are not kept in confinement beyond the proper release date; and to protect the integrity of the judicial system. Sentences to confinement are to be carried out fully and prisoners are not to be released prematurely or late.

2. Expiration Tables. Expiration tables are specifically designed for sentence computation purposes and shall be utilized in computing sentence expiration dates (reference (d)).

a. Seeming inequities in sentencing occur because not all months contain the same number of days. A 1-month sentence adjudged on 1 January 1992 has a full-term release date of 31 January 1992. The same sentence adjudged 1 February 1992 has a full term release date of 29 February 1992. The full term release date for a 30-day sentence adjudged 1 February 1992 is 1 March 1992. The expiration tables serve to identify the exact date a prisoner is to be released.

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b. Expiration Table numbers are provided as five digit numbers that correspond to specific calendar dates. Each number runs consecutively from January 1 until December 31 and maintains continuity with the previous and next years. (Example: 1 JAN 95 and 31 DEC 95 corresponds to #20455 and #20819 respectively.) Each year is located on a separate page. Months are provided as columns along the top of each page. Days of the month are shown down the left and right edges of the page. The number located in both the column for the month and on the line for the day of the month is the Expiration Table # for that date.

3. Examples of Sentence Computations

a. General Rules for Computations. Utilizing the Expiration Tables to determine the numbers that correspond to the exact dates used in the computation is far more accurate and less time consuming than counting out the sentence day for day on a calendar or other similar "shortcut" methods. The following basic steps are used in most computations of sentence expiration dates:

(1) One day is subtracted from the day adjudged plus sentenced time because the day adjudged and the day of release both count as full days of confinement (see article 9301).

(2) Earnable Good Conduct Time (GCT) Computation. To the degree possible GCT computation should be based on months of confinement. A sentence to 4 years confinement is equivalent to a sentence of 48 months. If the rate of earning for a 4 year sentence is 7 days per month, then multiply the rate of earning times by the number of months in the sentence. The earnable GCT in this case is 336 days. See article 9202 for exact rates of earning for GCT.

b. Computation for Sentence in Days. For sentences involving days, add the number of days sentenced to the expiration table # corresponding to the date adjudged. Table 9-2 provides the computation for 30 days confinement adjudged 8 January 1995.

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TABLE 9-2

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	95	01	08	20462
Sentenced to 30 days				+ 30
	95	02	07	20492
Less 1 day				- 01
Full-term release date	95	02	06	20491
Less earnable good time				- 05
Normal release date	95	02	01	20486

c. Computation for Sentence in Months. For sentences to confinement in months, simply add the number of months or years on to the month/year adjudged. If the sentence was for 13 or greater months, you would add 1 year and number of months over 12 onto the adjudged date. Table 9-3 provides the computation for 2 months confinement adjudged 3 August 1995.

TABLE 9-3

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	95	08	03	
Sentenced to 2 months	<u>00</u>	<u>02</u>	<u>00</u>	
	95	10	03	20730
Less 1 day				- 01
Full-term release date	95	10	02	20729
Less earnable good time				- 10
Normal release date	95	09	22	20719

d. Computation for Sentence in Years. For sentences to confinement in years, simply add the number of years on to the month/year adjudged. Table 9-4 provides the computation for 4 years confinement adjudged 15 February 1995.

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TABLE 9-4

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	95	02	15	
Sentenced to 4 years	<u>04</u>	<u>00</u>	<u>00</u>	
	99	02	15	21961
Less 1 day				<u>- 01</u>
Full-term release date	99	02	14	21960
Less earnable good time				<u>- 336</u>
Normal release date	98	03	15	21624

e. Computation for Sentence in Years and Days. To determine earnable GCT when a prisoner is sentenced in days, use 30 days as a month and the remainder as days. In the example below, 75 days are reduced to 2 months and 15 days. Therefore, the sentence of 2 years and 75 days, for the purpose of computing earnable GCT, is reduced to 26 months and 15 days (26 mos x 6 days per month = 156 GCT). Table 9-5 provides the computation for 2 years and 75 days confinement adjudged 26 June 1991.

TABLE 9-5

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	91	06	26	
Sentenced to: 2 years	<u>02</u>			
75 days	93	06	26	19901
				<u>+ 75</u>
	93	09	09	19976
Less 1 day				<u>- 01</u>
Full-term release date	93	09	08	19975
Less earnable good time				<u>- 159</u>
Normal release date	98	04	02	19816

f. Computation for Sentence in Years and Months. Table 9-6 provides the computation for 2 years and 2 months confinement adjudged 17 December 1990.

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TABLE 9-6

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	90	12	17	
Sentenced to: 2 years	<u>02</u>			
	92	12	17	
2 months		<u>02</u>		
	93	02	17	19772
Less 1 day				<u>- 01</u>
Full-term release date	93	02	16	19771
Less earnable good time *				<u>- 180</u>
Normal release date	92	08	20	19591

* GCT: 30 months at 6 days per MO = 180 days.

g. Computation for Deferred Sentence. Table 9-7 provides the computation for a 1 month sentence adjudged on 19 December 1995, deferred until the Convening Authority's action, and approved by the Convening Authority on 9 January 1996.

TABLE 9-7

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
* Beginning date sentenced to	96	01	09	
Sentenced to: 1 month		<u>01</u>		
	96	02	09	20859
Less 1 day				<u>- 01</u>
Full-term release date	96	02	08	20858
Less earnable good time				<u>- 05</u>
Normal release date	96	02	03	20853

* For sentences involving a deferment, the beginning date of the computation will be the terminating date of the deferment (see article 9301).

h. Computation for Sentence Involving Forfeited Good Time. Table 9-8 provides the computation for 4 months confinement adjudged on 17 October 1997 with a subsequent forfeiture of 10

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days of his or her good time for a rules violation committed on 30 December 1997.

TABLE 9-8

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	97	10	17	
Sentenced to: 4 months		<u>04</u>		
	98	02	17	21598
Less 1 day				<u>- 01</u>
Full-term release date	98	02	16	21597
Less earnable good time				<u>- 20</u>
Normal release date	98	01	27	21577
* Plus forfeited time				<u>+ 10</u>
Actual release date	98	02	06	21587

* Ten days are added because the total good time earnable was credited in the normal release date computation.

9304. INOPERATIVE TIME

1. A sentence to confinement is continuous until the term expires and is interrupted only by inoperative time, which is any period for which a prisoner is not entitled to confinement credit. Inoperative time includes periods of unauthorized absence; while erroneously released from confinement through fraud; while absent after delivery to civil authorities, if followed by a conviction in a civil tribunal (RCM 1113(d)(2)(A)) of reference (c)) or while the sentence is interrupted under the conditions set forth in articles 9305 or 9309 (vacated suspension). The Naval Clemency and Parole Board determines inoperative time in cases of parole revocation and informs the brig and prisoner of this decision for use in computing new adjusted release dates.

2. An escaped prisoner who returns to military control, but who conceals his or her status as a prisoner continues to be "absent without authority" within the meaning of this article. However, an escaped prisoner who is returned to confinement is again credited with time served beginning with the date of return, even when charges are pending on the escape offense. If a sentence is adjudged for the escape, the procedures for multiple sentence are

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used. (See article 9305.) Portions of days served in confinement on the date beginning and terminating any inoperative time period, including a period of absence following an escape, count as full days of confinement.

a. Procedure. A period of inoperative time is terminated and the sentence is resumed on the day the prisoner returns to military authority. The release date is computed by taking the beginning date of the sentence, reducing the full term release date by the amount of good time credited, subtracting the number of days credited toward completion of the sentence prior to the time the period of inoperative time begins to run, and then adding the amount of inoperative time and the forfeited good time to the original release date.

Example. Table 9-9 provides the computation for a sentence involving inoperative time. A general court-martial sentence adjudged on 13 May 1991 prescribes 6 months confinement. One month after the sentence begins to run (date adjudged), the prisoner escapes (12 June 1991). He or she is apprehended and returned to military confinement 11 June 1992. One day is subtracted from the inoperative time because the day of escape and the day apprehended each count as a full day of confinement (see article 9301).

9305. AGGREGATION OF MULTIPLE SENTENCES

1. When a prisoner is serving a sentence to confinement at the time a subsequent sentence to confinement is adjudged, the original sentence to confinement is automatically interrupted until completion of the confinement under the last sentence adjudged. The remaining portion of the prior sentence will be served after the last sentence has been fully executed (RCM 1113(d)(2)(A)(iv)). Confinement ordered executed by vacation of a suspension of a sentence shall begin to run on the date ordered vacated and shall interrupt any other confinement in effect at that time.

2. Sentences to confinement shall be considered in the aggregate to determine the rate of earning good time and for the purpose of computing the date of eligibility for parole, except that parole violator terms and probation violator terms shall not be aggregated.

3. Computation of a Multiple Sentence. Table 9-10 provides the computation for the actual release date for 6 months confinement adjudged on 15 June 1991 and a subsequent 6 months confinement adjudged on 10 August 1991.

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TABLE 9-9

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	91	05	13	
Sentenced to: 6 months		<u>06</u>		
Less 1 day	91	11	13	19310 <u>- 01</u>
Full-term release date	91	11	12	19309
Less earnable good time				<u>- 30</u>
Normal release date	91	10	13	19279
* Plus inoperative time				+ 364
** Plus forfeited time				<u>+ 5</u>
Adjusted release date	92	10	16	19648

* Inoperative time				
Day apprehended	92	06	11	19521
Less day escaped	91	06	12	<u>19156</u>
				365
Less 1 day				<u>- 01</u>
Total inoperative time				364

**Forfeited GCT				
Day escaped	91	12	06	19156
Less date adjudged	91	05	13	<u>19126</u>
Days confined				30
Rate of earning for GCT is 5 days for 1 month.				

9306. REHEARINGS AND NEW OR OTHER TRIALS

1. In computing the term of confinement to be served under a sentence adjudged upon a rehearing or a new or other trial, (hereafter, new or other trial shall be referred to as "retrial"), prisoners shall be credited with confinement served on the original sentence up to the time the original sentence was set aside or the retrial ordered. Additionally, they shall be credited with any period actually spent in confinement, in connection with the charges which are subject to the rehearing or retrial, between the date the rehearing or retrial is ordered and the date of rehearing or retrial. See R.C.M. 810, 1107(e) (1) - (2), and 1210.

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TABLE 9-10

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged (original)	91	06	15	
Sentenced to: 6 months		<u>06</u>		
Less 1 day	91	12	15	19342 <u>- 01</u>
Full-term release date	91	12	14	19341
Less earnable good time				<u>- 30</u>
Normal release date	91	11	14	19311
Full term release date	91	12	14	
Sentenced interrupted	<u>91</u>	<u>08</u>	<u>10</u>	
Remaining time to serve on original sentence		04	04	

Assuming that the individual remained in confinement, as indicated in the example, computation of GCT should be as follows:

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged (second)	91	08	10	
Sentenced to: 6 months		<u>06</u>		
Less 1 day	92	02	10	19399 <u>- 01</u>
Full-term release date	92	02	09	19398
Plus remainder of original sentence		<u>04</u>	<u>04</u>	
Aggregated full-term release	92	06	13	19523
Less earnable good time (@6 days)				<u>- 72</u>
Normal release date	92	04	02	19451

2. Good time shall be credited only once after a rehearing. If the sentence at the rehearing or retrial is identical to the original sentence, there is no change in the rate of earning. If the second sentence is less than the first, see article 9205 for

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computation procedures. The total amount of good time credited shall in no case exceed that amount that could be earned under the original sentence. Table 9-11 provides the computation for a sentence of 8 years adjudged 1 April 1989, subsequently ordered for rehearing 1 October 1990 and adjudged on 1 December 1990 to 4 years confinement.

TABLE 9-11

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	89	04	01	
Sentenced to: 8 years	<u>08</u>			
	97	04	01	21276
Less 1 day				<u>- 01</u>
Full term release date	97	03	31	21275
Reduction (New sentence) (4 years vice 8 years)	<u>-04</u>			
Full-term release date	93	03	31	19814
Less possible GCT *				<u>- 196</u>
				19618
Less GCT earned **				<u>- 160</u>
Normal release date	92	04	09	19458

*Possible GCT

Full-term release	93	03	31
Date new sentence begins	<u>90</u>	<u>12</u>	<u>01</u>
	02	03	30

** 27 months (@ days) plus 30 days (7 days GCT) = 196 days
GCT; GCT earned: 20 months X 8 days = 160 GCT

9307. CROSSING INTERNATIONAL DATE LINE

1. Inequities in actual confinement served or in the actual release date will occur when prisoners are confined in ships' brigs or are being transferred to CONUS shore facilities and they cross the international date line. In addition to the regular sentence computation procedures contained in this chapter, the

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following adjustments shall be made to determine the actual release date under these conditions.

a. Crossing East to West - add 1 day to the original computation.

b. Crossing West to East - subtract 1 day from the original computation.

9308. CONFINEMENT IN LIEU OF FINE. Confinement may not be executed for failure to pay a fine if the accused demonstrates that he or she has made good faith efforts to pay but cannot because of indigency, unless the authority considering imposition of confinement determines, after giving the accused notice and opportunity to be heard, that there is no other punishment adequate to meet the Government's interest in appropriate punishment. (RCM 1113(d)(3) of reference (c)).

Example: A GCM sentence provides for dismissal, confinement for 2 years and a fine of \$4000, and further provides for additional confinement of 1 year if the fine is not paid. This shall be treated as an ordinary 3 year sentence with a possible 252 days good time. If the fine is paid, the sentence shall be recomputed as a 2 year sentence with a possible 144 days good time. Note that clemency and parole eligibility dates are based on the 2 year sentence, however.

9309. VACATED SUSPENSION. For sentences to confinement which are suspended and later vacated, the time between the first day of suspension and the date the suspension is vacated shall be considered as inoperative time in computing adjusted release dates.

Example: Table 9-12 provides the computation for a prisoner sentenced to 6 months' confinement on 3 August 1991. The prisoner remained in confinement until 5 October 1991, when the convening authority suspended the remaining portion of the sentence for a period of 6 months. On 6 December 1991, the suspension was vacated and the prisoner was returned to confinement.

9310. PAROLE VIOLATOR TERM. The unexpired term of the sentence to be served by a person who has violated parole shall be determined as follows: the term will be the actual number of days' difference between the date of release to the date of suspension or revocation of that parole as a result of a new offense as ordered by the Naval Clemency and Parole Board. If the brig receives a parole violator, the letter of revocation from the Naval Clemency and Parole Board will indicate how much

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time, if any, is forfeited. This term may be reduced by the good time which may be earned on the parole violator term at the rate applicable to the full term of the sentence. It may also be reduced by earned time. The day of release on parole is credited as a day of confinement. Parole violators will not be credited with good time or earned time earned prior to the date of their release on parole. See 9102.8 for explanation of how credit for time on parole is credited towards completion of sentence and see 9304 for inoperative time guidance for parole violators.

TABLE 9-12

	<u>YR</u>	<u>MO</u>	<u>DA</u>	<u>Expiration Table #</u>
Date adjudged	91	08	03	
Sentenced to: 6 months		<u>06</u>		
Less 1 day	92	02	03	19392 - 01
Full-term release date	92	02	02	19391
Inoperative time *				+ 61
Adjusted release date	92	03	04	19452
Less earnable GCT **				- 19
Normal release date	92	03	15	19433

*Inoperative Time				
Suspension vacated	91	06	12	19333
Less sentence suspended	91	10	05	<u>19271</u>
				62
Less 1 day				- 01
Total inoperative time				61

** GCT: Good conduct time can only be awarded for the portion of sentence remaining to be served following the vacation of suspension. In this case, a period of 3 months and 27 days remain because 2 months and 3 days were served prior to the date of suspension.

Note: Date of suspension and release each count as one day of confinement (see article 9301).

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9311. CREDIT FOR PRETRIAL CONFINEMENT

1. A report of results of trial, as described in articles 7203, 7301.1, and 8109.2f, shall constitute the official notice of administrative credit referred to in this article. The CO/OIC of the confinement facility shall ensure that each prisoner receives the credits indicated in the report of the results of trial, after the credit for good conduct time has been computed without regard to such additional credits. Confirmation of such additional credits in post-trial actions of convening or other reviewing authorities is not required and should not be awaited before implementing the administrative credits indicated in the report of results of trial.

2. Unless otherwise indicated, each prisoner shall receive day-for-day credit for each day spent in pretrial confinement as reflected in the report of results of trial. A prisoner is granted good conduct credit for this period at the time of sentence computation.

3. Each prisoner shall also receive such credits as may have been ordered by the military judge of the court-martial before which the trial was held. These credits are described as judicially ordered credits and are in addition to credits received for lawful pretrial confinement.

4. Credits may also be ordered by convening or other reviewing authorities in post-trial actions. Care must be taken by the reviewing authority to specify whether such credits merely reiterate credits already required to be given for lawful pretrial confinement or by judicial order, or whether they are intended to be in addition to such required credits. If, and only if, the credits ordered in post-trial actions are specified to be in addition to such required credits shall they be included in the computation of sentences.

9312. EXPIRATION TABLES. Expiration tables which are specifically designed for use in sentence computation are obtainable from the Chief of Naval Personnel (Pers-84) or the Commandant of the Marine Corps (MHC). A computerized program which determines prisoner release dates will be used where available. (e.g., CORMIS)

9313. CREDIT FOR PRETRIAL AGREEMENT

1. Even if the report of results of trial reflects the provisions of a pretrial agreement, the good conduct time computed based on the sentence as announced by the court is still the legitimate basis for earning good conduct time. The pretrial

agreement will not be used in the computation of good conduct time until the convening authority approves the agreement. Good conduct time of a sentence with an approved pretrial agreement is to be computed on what the convening authority approves and only from the date of the approval. If the approved pretrial agreement is for a lesser sentence that reduces the earning rate of good conduct time, credits and good conduct time earned before the convening authority's action will be retained by the prisoner.

2. Notwithstanding this requirement, the good conduct time earnable based on the pretrial agreement will also be computed and will be tracked closely by the brig. Most pretrial agreements are honored and binding; as such, the brig must be prepared to release the prisoner based on the pretrial agreement if the convening authority's action is not prior to the pretrial agreement release date. If the convening authority has not acted by the projected pretrial agreement release date, a prisoner is to be released in accordance with the pretrial agreement using good conduct time earned based on the sentence announced by the court. The brig will verify the concurrence of the convening authority, based on the convening authority's intention to honor the pretrial agreement, no later than the week prior to the release based on the pretrial agreement projection.

3. If a pretrial agreement places conditions on the prisoner's confinement, e.g. attend substance abuse counseling, pay a fine, make restitution, etc., and the conditions have not been fulfilled by the prisoner, the convening authority of the prisoner shall conduct a hearing, within seven calendar days before the release date approved by the convening authority, to determine if the prisoner was capable of fulfilling the conditions. If it is determined that the prisoner was not able to fulfill the pretrial agreement conditions, through no fault of his or her own, the prisoner shall be released on the date approved by the convening authority in the pretrial agreement just as though the conditions had been fulfilled. The convening authority must notify the brig of the results of the hearing prior to the projected release date. If the convening authority fails to conduct this hearing by the time of the prisoner's pretrial agreement release date, or fails to notify the brig of any results, the prisoner is to be released, even if the conditions of the pretrial agreement have not been fulfilled. It is also incumbent on the brig to attempt to ascertain exact pretrial agreement status prior to any such release. See article 9308 for confinement in lieu of fine.